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(kef)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
AT CLEVELAND

IN RE:	:	Case No. 09-13100
	:	
Terry Weese	:	Chapter 7
Renee Weese	:	
	:	
Debtors	:	Judge Pat E Morgenstern-Clarren
	:	
	:	MOTION OF CHASE HOME FINANCE,
	:	LLC FOR RELIEF FROM STAY AND
	:	ABANDONMENT (PROPERTY ADDRESS
	:	10302 HOBART ROAD KIRTLAND, OH
	:	44094)

Chase Home Finance, LLC (the "Movant") moves this Court, under §§ 361, 362, 363, 554 and other sections of the Bankruptcy Reform Act of 1978, as amended (the "Bankruptcy Code") and under Rules 4001, 6007 and other rules of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for an Order conditioning, modifying or dissolving the automatic stay imposed by § 362 of the Bankruptcy Code and for abandonment of property under § 554 of the Bankruptcy Code. In support of this Motion, the Movant states:

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this Motion is proper under 28 U.S.C. §§ 1408 and 1409.

2. On May 8, 2003, the Debtors listed above (collectively, the "Debtors") obtained a loan from **RBC Mortgage Company** in the amount of \$238,500.00. Such loan was evidenced by a promissory note dated May 8, 2003 (the "Note"), a copy of which is attached as Exhibit "A".

3. To secure payment of the Note and performance of the other terms contained in it, the Debtors executed a Mortgage dated May 8, 2003 (the "Security Agreement"). The Security Agreement granted a lien on the real and/or personal property (the "Collateral") owned by the Debtors, located at 10302 Hobart Road Kirtland, OH 44094, and more fully described in the Security Agreement.

4. The lien created by the Security Agreement was duly perfected by the filing of the Security Agreement in the Office of the Lake County Recorder on May 13, 2003. A copy of the Security Agreement is attached to this motion as Exhibit "B". The lien is the 1st lien on the Collateral.

5. The Note and Security Agreement were transferred as follows:

The Note was transferred from RBC Mortgage Company to Chase Home Finance, LLC as evidenced by the endorsement on the Note. See Exhibit A. The original endorsement is physically affixed to original Note. The Mortgage was transferred from Mortgage Electronic Registration Systems, Inc. as nominee for RBC Mortgage Company, its successors and assigns to Chase Home Finance, LLC as evidenced by the assignment recorded on May 11, 2009 as evidenced by the document attached hereto as Exhibit "C".

6. The value of the Collateral is \$204,000.00. This valuation is based on Debtors' Schedule D.

7. As of the date of this Motion, there is currently due and owing on the Note the outstanding balance of \$221,420.41, plus interest accruing thereon at the rate of 5.875% per annum (\$34.96 per day) from October 30, 2009.

8. Other parties known to have an interest in the Collateral are: CitiMortgage by virtue of a second Mortgage, upon which the amount due is approximately \$121,848.00.

9. The Movant is entitled to relief from the automatic stay under §§ 362(d)(1) and/or 362(d)(2) for these reasons:

Debtors have failed to provide adequate protection for the lien held by the Movant for the reasons set forth below.

This case is a Chapter 7 wherein debtor is in default for payment on the mortgage loan and there is no equity for the benefit of the estate.

10. Movant has completed the worksheet attached as Exhibit "D".

11. This Motion conforms to the standard form adopted in this District except as follows: See Paragraphs 5 and 9.

WHEREFORE, Movant prays for an Order from the Court granting Movant relief from the automatic stay of §362 of the Bankruptcy Code to permit Movant to proceed under law and for such other and further relief to which the Movant may be entitled.

/s/ Steven H. Patterson
Steven H. Patterson
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(513) 241-3100 ext. 3373

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Motion for Relief from Stay and Abandonment of the secured creditor, Chase Home Finance, LLC, was electronically transmitted on or about the 29th day of October, 2009 via the Court's CM/ECF system to the following who are listed on the Court's Electronic Mail Notice list:

Paul J Silver, Esq.
2000 Lee Rd. #23
Cleveland Heights, OH 44118
paulsilveresq@gmail.com

Waldemar J. Wojcik, Trustee
526 Superior Avenue
Leader Bldg
#1030
Cleveland, OH 44114
wwojcik@epitrustee.com

Office of the U.S. Trustee
Howard Metzenbaum, U.S. Courthouse
201 Superior Avenue
Cleveland, OH 44114
(Registered address)@usdoj.gov

The undersigned certifies that a copy of the foregoing Motion for Relief from Stay and Abandonment of the secured creditor, Chase Home Finance, LLC, was transmitted on or about the 29th day of October, 2009 via regular U.S. mail, postage pre-paid:

Terry Weese
10302 Hobart Road
Kirtland, OH 44094

Renee Weese
10302 Hobart Road
Kirtland, OH 44094

CitiMortgage
PO Box 9438
Gaithersburg, MD 20898

/s/ Steven H. Patterson
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